



November 10, 2011

Jocelyn Boyd  
Chief Clerk/Administrator  
Public Service Commission of South Carolina  
101 Executive Center Dr., Suite 100  
Columbia, SC 29210

RE: SCPSC Docket No. 2011-158-E

Dear Mrs. Boyd:

Pursuant to the Commission's Order No. 2011-816 issued on November 2, 2011, Progress Energy Carolinas, Inc. and Duke Energy Carolinas, LLC submit for filing in the above-referenced docket the Supplemental Direct Testimony of Alexander J. Weintraub.

Sincerely,

A handwritten signature in black ink that reads 'Len S. Anthony/mhm'.

Len S. Anthony  
General Counsel  
Progress Energy Carolinas, Inc.

LSA:mhm

STAREG1929

**STATE OF SOUTH CAROLINA**  
**PUBLIC SERVICE COMMISSION**  
**COLUMBIA**

**DOCKET NO. 2011-158-E**

**BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of )  
 )  
Application of Duke Energy Carolinas, )  
LLC and Progress Energy Carolinas, Inc. )  
to Engage in a Business Combination )  
Transaction )

**SUPPLEMENTAL**  
**DIRECT TESTIMONY OF**  
**ALEXANDER J. WEINTRAUB**

1   **Q.   PLEASE STATE YOUR NAME, ADDRESS AND POSITION.**

2   **A.   My name is Alexander (Sasha) J. Weintraub and my business address is 100 East Davie**  
3       **Street, Raleigh, North Carolina. My position is Vice President-Fuels and Power**  
4       **Optimization for Progress Energy Carolinas, Inc. ("PEC" or "Company").**

5   **Q.   ARE YOU THE SAME SASHA WEINTRAUB THAT PREVIOUSLY**  
6       **SUBMITTED TESTIMONY IN THIS PROCEEDING?**

7   **A.   Yes. I submitted direct testimony and exhibits in this proceeding on September 14, 2011.**

8   **Q.   WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9   **A.   The purpose of my testimony is to discuss the market power issues raised by the Federal**  
10       **Energy Regulatory Commission ("FERC") in its September 30, 2011 order conditionally**  
11       **approving the merger of Progress Energy, Inc. and Duke Energy Corporation. I will also**  
12       **explain the market power mitigation proposal filed by Progress and Duke on October 17,**  
13       **2011 with the FERC and why it remedies the FERC's market power concerns. Finally, I**  
14       **will explain why the mitigation proposal does not impact the joint dispatch of Progress**  
15       **Energy Carolinas, Inc.'s ("PEC") and Duke Energy Carolinas, LLC's ("DEC")**  
16       **generation facilities.**

1 **Q. PLEASE EXPLAIN THE MARKET POWER CONCERNS RAISED BY THE**  
2 **FERC'S MERGER ORDER?**

3 **A. FERC found "screen failures" with respect to the market for short-term energy, which is**  
4 **referred to as "Available Economic Capacity" during the summer and winter periods in**  
5 **the DEC balancing authority area ("BAA") and the summer period in the PEC East BAA.**  
6 **Available Economic Capacity represents the amount of capacity that a utility has**  
7 **remaining after serving all of its retail and wholesale native load obligations and that has**  
8 **operating costs that are lower than the market prices that prevail during the relevant**  
9 **period. A "screen failure" means that the increase in the level of concentration of**  
10 **ownership of Available Economic Capacity resulting from the merger exceeds certain**  
11 **thresholds established by FERC.**

12 **Q. DOES THE FACT THAT FERC FOUND SCREEN FAILURES MEAN THAT**  
13 **PEC AND DEC NECESSARILY COULD EXERCISE MARKET POWER?**

14 **A. No. FERC has provided for a very conservative test that is intended to identify potential**  
15 **market power problems that require further analysis in order to determine whether in fact**  
16 **market power could be exercised. Rather than conduct that analysis, however, FERC**  
17 **required PEC and DEC to take steps to mitigate up front any potential for the exercise of**  
18 **market power in the periods where there were screen failures identified by FERC.**

19 **Q. PLEASE DESCRIBE PEC'S AND DEC'S PROPOSED MARKET POWER**  
20 **MITIGATION PROPOSAL.**

21 **A. FERC's concern is that PEC and DEC could possibly exercise market power in the short**  
22 **term wholesale electricity market by withholding their excess generation from this**  
23 **market, and thereby increase market prices. To address this concern, the proposal**



1 submitted to the FERC requires PEC and DEC to offer to sell for resale in their BAAs a  
2 certain amount of excess generation during these time periods. BAAs are also known as  
3 control areas. For PEC, it must offer to sell all excess generation up to 500 MWs during  
4 the summer months. For DEC, it must offer to sell excess generation up to 300 MWs  
5 during the summer months and 225 MWs during the winter months. The price at which  
6 this excess generation would be sold is the average incremental cost of the generation  
7 plus 10%. The companies will offer this energy on a daily basis. The proposed term of  
8 the mitigation proposal is 8 years. By committing to make this excess generation  
9 available, PEC and DEC would not be able to withhold that generation from the market  
10 and therefore have eliminated any potential to exercise market power in this fashion.

11 **Q. YOU CHARACTERIZED THE GENERATION PEC AND DEC MUST OFFER**  
12 **INTO THE SHORT TERM WHOLESALE MARKET UNDER THE**  
13 **MITIGATION PROPOSAL AS EXCESS GENERATION. WHAT DOES THAT**  
14 **MEAN?**

15 **A.** As I explained above, the Available Economic Capacity measure used in FERC's  
16 analysis measures generation capacity that is available after serving retail and wholesale  
17 native load customers. Consequently, under the mitigation proposal submitted to FERC  
18 the excess generation is that generation available after PEC and DEC have served all of  
19 their South Carolina and North Carolina retail customers and native load firm wholesale  
20 customers with PEC's and DEC's lowest cost generation.

21 **Q. ARE THERE ANY LIMITATIONS ON WHAT EXCESS GENERATION WILL**  
22 **BE MADE AVAILABLE FOR THE MITIGATION SALES?**

1 A. Yes, just one. There is a reliability related limitation. Both PEC and DEC may cancel  
2 any short term sale made under the mitigation proposal if PEC or DEC needs that  
3 generation to reliably meet its retail or native load firm wholesale customers' needs. In  
4 other words, if PEC lost a generating unit, it could cancel a mitigation sale in order to use  
5 that generation to replace the lost unit. But if PEC and DEC have available generation  
6 and it is not needed to reliably serve native load, it will be offered for the mitigation sales  
7 up to the limits I described earlier.

8 **Q. WHAT IMPACT, IF ANY, WILL THE MITIGATION SALES HAVE ON THE**  
9 **COMPANIES' ABILITY TO MAKE OFF-SYSTEM SALES?**

10 A. PEC and DEC retain the right to sell any excess generation not purchased under the  
11 mitigation proposal either inside of their BAAs pursuant to their cost-based rate tariffs or  
12 outside their BAAs pursuant to their market-based rate tariffs.

13 **Q. DOES THE MARKET POWER MITIGATION PROPOSAL IMPACT THE**  
14 **JOINT DISPATCH OF PEC'S AND DEC'S GENERATION FACILITIES?**

15 A. No. The joint dispatch of DEC's and PEC's units needed to serve native load will not be  
16 affected by potential mitigation sales. As I explained earlier, under the mitigation  
17 proposal PEC and DEC first will serve all of their retail customers and native load firm  
18 wholesale customers with their lowest cost generation before making any energy  
19 available for sale in the wholesale market pursuant to the mitigation proposal. Therefore,  
20 the proposal does not change in any way the joint dispatch of units to serve retail and  
21 wholesale native load customers. Further, PEC and DEC will be able to withdraw any  
22 energy offered for sale under their FERC mitigation proposal if that energy is needed to

1           serve retail or native load wholesale customers. Thus, the joint dispatch of PEC's and  
2           DEC's generation facilities will not be impacted in anyway by the mitigation proposal.

3   **Q.   DOES THIS CONCLUDE YOUR TESTIMONY?**

4   **A.   Yes.**

BEFORE

THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2011-158-E

In the Matter of )  
Application of Duke Energy Carolinas, LLC )  
and Progress Energy Carolinas, Inc. to )  
Engage in a Business Combination )  
Transaction )

**CERTIFICATE OF SERVICE**

I, Len S. Anthony, hereby certify that a copy Supplemental Direct Testimony of Alexander J. Weintraub on behalf of Duke Energy Carolinas, LLC and Progress Energy Carolinas, Inc. have been served on all parties of record either by hand delivery, e-mail, or by depositing said copy in the United States mail, postage prepaid, addressed as follows:

Pablo O. Nuesch  
Spiegel & McDiarmid, LLP  
1333 New Hampshire Avenue, N.W.  
Washington, DC 20036

Peter J. Hopkins  
Spiegel & McDiarmid  
1333 New Hampshire Avenue, N.W.  
Washington, DC 20036

Michael K. Lavanga  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson Street, N.W.  
Eighth Floor, West Tower  
Washington, DC 20007

Garrett A. Stone  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson Street, N.W.  
Eighth Floor, West Tower  
Washington, DC 20007

James N. Horwood  
Department of Public Utilities  
City of Orangeburg  
Spiegel & McDiarmid, LLP  
1333 New Hampshire Avenue, N.W.  
Washington, DC 20036

Dr. Peters Wilborn, Jr.  
Derfner, Altman & Wilborn  
P. O. Box 600  
Charleston, SC 29402

Douglas Jennings, Jr.  
Douglas Jennings Law Firm, LLC  
P. O. Box 995  
Bennettsville, SC 29512

Kodwo Ghartey-Tagoe  
Vice President Legal, State Regulation  
Duke Energy Carolinas, LLC  
P. O. Box 1006 / EC03T  
Charlotte, NC 28201



Scott Elliott  
Elliott & Elliott, P.A.  
1508 Lady Street  
Columbia, SC 29201

Courtney D. Edwards  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC 29201

Frank R. Ellerbe, III  
Robinson, McFadden & Moore, P.C.  
P. O. Box 944  
Columbia, SC 29202

K. Chad Burgess  
South Carolina Electric & Gas Company  
MC C222  
220 Operation Way  
Cayce, SC 29033

J. Blanding Holman, IV  
Southern Environmental Law Center  
43 Broad Street, Suite 300  
Charleston, SC 29401

Michael N. Couick  
The Electric Cooperatives of SC, Inc.  
808 Knox Abbott Drive  
Cayce, SC 29033

Paul J. Conway  
Tiencken Law Firm, LLC  
234 Seven Farms Drive, Suite 114  
Charleston, SC 29492

Jill Mara Tauber, Counsel  
Southern Environmental Law Center  
122 C Street, NW, Suite 390  
Washington, DC, 20001

Robert R. Smith, II  
Moore & Van Allen, PLLC  
100 North Tryon St., Suite 4700  
Charlotte, NC 28202

Nanette S. Edwards  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC 29201

Jonathan D. Newman  
Sherman, Dunn, Cohen, Leifer & Yellig, P.C.  
900 Seventh Street, N.W., Suite 1000  
Washington, DC 20001

Matthew W. Giissendanner  
South Carolina Electric & Gas Company  
MC C222  
220 Operation Way  
Cayce, SC 29033

Christopher R. Koon  
The Electric Cooperatives of SC, Inc.  
808 Knox Abbott Drive  
Cayce, SC 29033

John H. Tiencken  
Tiencken Law Firm, LLC  
234 Seven Farms Drive, Suite 114  
Charleston, SC 29492

Gudrun Elise Thompson  
Southern Environmental Law Center  
601 W. Rosemary Street  
Suite 220  
Chapel Hill, NC, 27516

This 10<sup>th</sup> day of November, 2011.

  
\_\_\_\_\_  
Len S. Anthony  
General Counsel